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7

8 **BEFORE THE**
BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **KATHLEEN M. SCHMIDT**
5785 Oberlin Drive, Ste. 100
13 San Diego, CA 92121

14 5703 Oberlin Drive, Ste. 105
San Diego, CA 92121

15 8015 Silverton Avenue
16 San Diego, CA 92126

17 CPA Certificate No. 38260

18 **SCHMIDT ACCOUNTANCY**
CORPORATION

19 5785 Oberlin Dr., Ste. 100
20 San Diego, CA 92121

21 5703 Oberlin Dr., Ste. 105
San Diego, CA 92121

22 8015 Silverton Avenue
23 San Diego, CA 92126

24 Certificate No. COR 2449,

Respondents.)

) Case No.: AC-1999-21

) **DEFAULT DECISION AND**
) **ORDER**

) [Gov. Code, § 11502]

25
26 On January 11, 2000, Kathleen M. Schmidt and Schmidt Accountancy Corporation

27 ("Respondent Schmidt and Respondent Schmidt Accountancy," respectively) were sent via

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1 certified mail and first class mail, at their address on file with the Board of Accountancy, the
2 following pleading packet: Accusation; Statement to Respondent; Request for Discovery, and
3 Notice of Defense as provided by Government Code sections 11503 and 11505 ("pleading
4 packet"). Respondents failed to file a Notice of Defense as required by Government Code
5 section 11506. Respondents are in default. The default of respondents having been duly noted,
6 the Board of Accountancy ("Board") has determined that respondents have waived their right to a
7 hearing to contest the merits of the Accusation, and makes the following findings of fact:

8 **FINDINGS OF FACT**

9 1. On July 29, 1983, the Board issued Certificate No. 38260 to respondent
10 Schmidt. The license was in full force and effect until February 1, 1997, and has not been
11 renewed. On September 6, 1983, the Board issued respondent Schmidt Accountancy Certificate
12 of Registration No. COR 2449. [Exhibit A - License Certification.]

13 2. On November 30, 1999, complainant sent respondent Schmidt a letter via
14 certified and first class mail informing her of the charges and allegations against her and against
15 Schmidt Accountancy and requested her presence at a "pre-accusation filing conference." She
16 was informed in the letter that if she did not respond to the Board by December 15, 1999, an
17 accusation would be filed against her. Respondent and respondent Schmidt Accountancy failed
18 to respond to the letter. [Exhibit B - Pre-Filing Conference Letter.]

19 3. On December 30, 1999, complainant Carol B. Sigmann, in her official capacity
20 as Executive Officer of the Board filed Accusation No. AC-1999-21 against Respondent
21 Schmidt, and Respondent Schmidt Accountancy. [Exhibit C - Accusation.]

22 4. On January 11, 2000, complainant sent via certified and first class mail the
23 pleading packet, together with copies of all statutorily required documents to Respondent
24 Schmidt at her address of record with the Accountancy Board which was, and is, 5785 Oberlin
25 Drive, Suite 100, San Diego, California 92121. The aforementioned documents were returned by
26 the U.S. Postal Service as undeliverable. The certified packet, however, contained a forwarding

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1 address for Respondent Schmidt at 8015 Silverton Avenue, San Diego, CA 92126-6383.

2 [Exhibit **D** - Unclaimed mail.]

3 5. On January 11, 2000, the aforementioned documents were again mailed by
4 regular and certified mail to Respondent Schmidt Accountancy at 5785 Oberlin Drive, Ste. 100,
5 San Diego, California 92121. The mail was returned as "Undeliverable as Addressed - Return to
6 Sender - Unclaimed." [Exhibit **E** - Unclaimed mail.]

7 6. On January 11, 2000, the aforementioned documents were again mailed by
8 regular and certified mail to respondent Schmidt at 8015 Silverton Avenue, San Diego,
9 California 92126. The mail was returned as "Unclaimed - Return to Sender" [Exhibit **F**.]

10 7. The Board received information that respondents moved their location to 5703
11 Oberlin Drive, Ste. 105. Therefore, on January 11, 2000, the aforementioned documents were
12 also mailed by regular and certified mail to Respondent Schmidt and Respondent Schmidt
13 Accountancy at 5703 Oberlin Drive, Ste. 105, San Diego, California. 92121. These documents
14 were marked "RTN to SEND" with a forwarding address of 8015 Silverton Avenue, San Diego,
15 California 92126-6383. [Exhibit **G** - unclaimed mail.]

16 8. Respondents failed to file a Notice of Defense within 15 days after service
17 upon them of the Accusation and therefore have waived their right to a hearing on the merits of
18 Accusation No. AC-1999-21.

19 9. Government Code section 11520 provides in pertinent part:

20 "(a) If the respondent either **fails to file a notice of defense** or to appear at the
21 hearing, the agency may take action based upon the respondent's express
22 admissions or upon other evidence and affidavits which may be used as evidence
23 without notice to respondent;" (Emphasis added.)

24 10. The Board of Accountancy has determined that respondents have waived
25 their right to a hearing to contest the merits of the Accusation; further that respondents are in
26 default; and that the Board has jurisdiction pursuant to section 11520 of the Government Code to
27 take action against respondents based on the evidence in **Exhibits A through G**.

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1 11. The Board of Accountancy is authorized to revoke respondents' licenses
2 pursuant to the following statutes and regulations:

3 A. Code Section 5100 provides in part as follows:

4 "After notice and hearing the board may revoke, suspend or refuse to renew any
5 permit or certificate granted under Article 4 (commencing with Section 5070) and Article
6 5 (commencing with Section 5080), or may censure the holder of any such permit or
7 certificate for unprofessional conduct which includes, but is not limited to, one or any
8 combination of the following causes:

9 "... "

10 "(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy
11 or in the performance of the bookkeeping operations described in Section 5052.

12 "... "

13 "(f) Willful violation of any provision of this chapter or any rule or regulation
14 promulgated by the board under the authority granted under this chapter.

15 "... "

16 "(h) Fiscal dishonesty or breach of fiduciary responsibility of any kind . . .

17 "... "

18 B. Code Section 5050 provides in part as follows:

19 "No person shall engage in the practice of public accountancy in this State unless
20 such person is the holder of a valid permit to practice public accountancy issued by the
21 board; . . ."

22 C. Section 5154 provides as follow:

23 "Except as provided in Section 13403 of the Corporations Code, each director,
24 shareholder, and officer of an accountancy corporation shall be a licenced person as
25 defined in the Moscone-Knox Professional Corporation Act."

26 D. Section 125.9(b)(5) provides in part as follows:

27 "Failure of a licensee to pay a fine within 30 days of the date of the assessment,

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1 unless the citation is being appealed, may result in disciplinary action being taken by the
2 board. . .”

3 E. Section 118 provides in part as follows:

4 “(b) The suspension, expiration, or forfeiture by operation of law of a license
5 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
6 of the board or by order of a court of law, or its surrender without the written consent of
7 the board, shall not, during any period in which it may be renewed, restored, reissued, or
8 reinstated, deprive the board of its authority to institute or continue a disciplinary
9 proceeding against the licensee upon any ground provided by law or to enter an order
10 suspending or revoking the license or otherwise taking disciplinary action against the
11 licensee on any such ground.”

12 F. Title 16, Division 1, of the California Code of Regulations ("Regulation"):

13 Regulation Section 52 provides as follows:

14 “A licensee shall respond to any inquiry by the Board or its appointed
15 representatives. The response shall include making available all files, working papers
16 and other documents requested. Failure to respond to the inquiry within 30 days
17 constitutes a violation of Section 5100(f) of the Accountancy Act. Any inquiry by the
18 Board requiring a response pursuant to this Section shall be in writing. The 30-day
19 response period begins when the inquiry is mailed to the licensee, or if not mailed, when
20 personally delivered.”

21 Regulation Section 66.1 provides in part:

22 “...”

23 “(d) An accountancy corporation which has only one shareholder shall not render
24 professional services under a firm name which includes plural terms such as “and
25 Company” or “and Associates” unless the corporation employs a full-time professional
26 staff, other than the shareholder, consisting of at least one licensee and an employee or

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1 assistant as described in Section 5053 of the Accountancy Act, or consisting of two or
2 more licensees.

3 “(e) An accountancy corporation which has only one shareholder shall not render
4 professional services under a firm name which includes a plural designation such as
5 “Certified Public Accountants” or “Public Accountants.”

6 “...”

7 Regulation Section 95.4 provides in part as follows:

8 “The failure of a licensee to comply with a citation containing an
9 assessment of an administrative fine, an order of correction or abatement or both
10 an administrative fine and an order of correction or abatement after this citation is
11 final . . . shall constitute a ground for revocation or suspension of the license or permit.”

12 12. Respondents have subjected their licenses to discipline under Business and
13 Professions Code sections 5100, 5050, 5154, 125.9(b)(5), 118 and Title 16 of the California
14 Code of Regulations sections 52, 66.1 and 95.4, as set forth in the Accusation attached hereto and
15 hereby incorporated by reference as contained in Exhibit C.

16 **DETERMINATION OF ISSUES**

17 1. Pursuant to Government Code section 11520, the Board hereby takes the
18 within action based on the evidence in **Exhibits A through G**.

19 2. Pursuant to authority under Government Code section 11520, and based on the
20 evidence before it, the Board finds that the charges and allegations contained in Accusation No.
21 AC 1999-21, separately and severally, and the Findings of Fact, paragraphs 1-12, above, and
22 each of them, separately and severally, are true and correct.

23 3. Pursuant to authority under Government Code section 11520, and by reason of
24 the Findings of Fact contained in paragraphs 1 through 12, above, and Determination of Issues
25 numbers 1 and 2, above, separately and severally, respondent Kathleen M. Schmidt has subjected
26 her Certificate No. 38260 to revocation under Business and Professions Code sections 5100,

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1 5050, 5154, 125.9(b)(5), 118, and Title 16 of the California Code of Regulations, sections 52,
2 66.1 and 95.4.

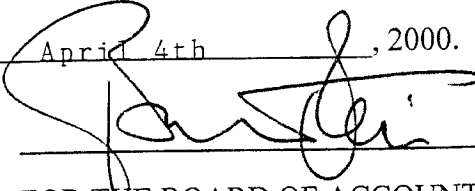
3 4. Pursuant to authority under Government Code section 11520, and by reason of
4 the Findings of Fact contained in paragraphs 1 through 12, above, and Determination of Issues
5 numbers 1 and 2, above, separately and severally, respondent Schmidt Accountancy Corporation
6 has subjected its Certificate No. COR 2449 to revocation under Business and Professions Code
7 sections 5100, 5050, 5154, 125.9(b)(5), 118 and Title 16 of the California Code of Regulations
8 sections 52, 66.1 and 95.4.

9 **DECISION AND ORDER OF THE BOARD**

10 Certificate No. 38260, heretofore issued to Kathleen M. Schmidt, is hereby
11 revoked. Certificate No. COR 2449, heretofore issued to Schmidt Accountancy Corporation, is
12 hereby revoked.

13 This decision shall become effective on May 4th, 2000.

14 Dated and signed April 4th, 2000.

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17 FOR THE BOARD OF ACCOUNTANCY
18 Department of Consumer Affairs
19 State of California
20 Complainant
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8 **BEFORE THE**
9 **BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:) Case No. AC-1999-21
12)
12 **KATHLEEN M. SCHMIDT**) OAH No.
5785 Oberlin Drive, Ste. 100)
13 San Diego, CA 92121)
14) **ACCUSATION**
5703 Oberlin Drive, Ste. 105)
15 San Diego, CA 92121)
16)
8015 Silverton Avenue)
16 San Diego, CA 92126)
17)
CPA Certificate No. 38260)
18)
18 **SCHMIDT ACCOUNTANCY**)
CORPORATION)
19 5785 Oberlin Dr., Ste. 100)
San Diego, CA 92121)
20)
5703 Oberlin Dr., Ste. 105)
21 San Diego, CA 92121)
22)
8015 Silverton Avenue)
22 San Diego, CA 92126)
23)
Certificate No. COR 2449,)
24)
25 Respondents.)
26)
27 ///

1 The Complainant, Carol Sigmann, as causes for disciplinary action alleges as
2 follows:

3 **PARTIES**

4 1. The Complainant, Carol Sigmann is the Executive Officer of the California
5 Board of Accountancy (hereinafter "the Board") and makes and files this accusation solely in her
6 official capacity.

7 2. Kathleen M. Schmidt (hereinafter "respondent Schmidt") is the holder of an
8 expired Certified Public Accountant license in the state of California. She is the sole owner,
9 shareholder and operator of Schmidt Accountancy Corporation. Respondent Schmidt's current
10 address on file with the Board is 5785 Oberlin Drive, Ste. 100, San Diego, CA 92121.

11 3. Schmidt Accountancy Corporation ("respondent corporation") has been owned
12 and operated by respondent since 1983. The current address on file with the Board is 5785
13 Oberlin Drive, Ste. 100, San Diego, CA 92121.

14 **LICENSE HISTORY**

15 4. On July 29, 1983, the Board issued to respondent Schmidt Certificate No.
16 38260 to practice accountancy in the state of California as a Certified Public Accountant (CPA)
17 pursuant to the Accountancy Act contained in Division 3, Chapter 1, section 5000 *et seq.* of the
18 California Business and Professions Code. Until February 1, 1997, respondent Schmidt's CPA
19 certificate was in full force and effect. Said certificate expired on February 1, 1997, and has not
20 been renewed.

21 5. On September 6, 1983, the Board issued respondent Schmidt Accountancy
22 Corporation Certificate of Registration No. COR 2449 pursuant to Business and Professions
23 Code Section 5150. Until June 30, 1998, respondent corporation's certificate was in full force
24 and effect. Said certificate expired on June 30, 1998, and has not been renewed.

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1 JURISDICTION

2 6. This accusation refers to the following statutes of Division 3, Chapter 1, of the
3 California Business and Professions Code ("Code"):

4 A. Code Section 5100 provides in part as follows:

5 "After notice and hearing the board may revoke, suspend or refuse to renew any
6 permit or certificate granted under Article 4 (commencing with Section 5070) and Article
7 5 (commencing with Section 5080), or may censure the holder of any such permit or
8 certificate for unprofessional conduct which includes, but is not limited to, one or any
9 combination of the following causes:

10 "... "

11 "(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy
12 or in the performance of the bookkeeping operations described in Section 5052.

13 "... "

14 "(f) Willful violation of any provision of this chapter or any rule or regulation
15 promulgated by the board under the authority granted under this chapter.

16 "... "

17 "(h) Fiscal dishonesty or breach of fiduciary responsibility of any kind . . .

18 "... "

19 B. Code Section 5035 provides as follows:

20 "Person" includes individual, partnership, firm, association, limited liability
21 company, or corporation, unless otherwise provided.

22 C. Code Section 5050 provides in part as follows:

23 "No person shall engage in the practice of public accountancy in this State unless
24 such person is the holder of a valid permit to practice public accountancy issued by the
25 board; ..."

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1 D. Section 5070.6 provides in part as follows:

2 "Except as otherwise provided in this chapter, an expired permit may be renewed
3 at any time within five years after its expiration on filing of application for renewal on a
4 form prescribed by the board, payment of all accrued and unpaid renewal fees and . . .
5 giving evidence to the board of compliance with the continuing education provisions of
6 this chapter. . ."

7 E. Section 5154 provides as follows:

8 "Except as provided in Section 13403 of the Corporations Code, each director,
9 shareholder, and officer of an accountancy corporation shall be a licenced person as
10 defined in the Moscone-Knox Professional Corporation Act."

11 F. Section 125.9(a) authorizes the Board to establish by regulation a system for
12 the issuance to a licensee of a citation which may contain an order of abatement or an
13 order to pay an administrative fine where the licensee is in violation of the applicable
14 licensing act or any regulation adopted pursuant thereto.

15 G. Section 125.9(b)(5) provides in part as follows:

16 "Failure of a licensee to pay a fine within 30 days of the date of the assessment,
17 unless the citation is being appealed, may result in disciplinary action being taken by the
18 board. . ."

19 H. Section 118 provides in part as follows:

20 "(b) The suspension, expiration, or forfeiture by operation of law of a license
21 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
22 of the board or by order of a court of law, or its surrender without the written consent of
23 the board, shall not, during any period in which it may be renewed, restored, reissued, or
24 reinstated, deprive the board of its authority to institute or continue a disciplinary
25 proceeding against the licensee upon any ground provided by law or to enter an order
26 suspending or revoking the license or otherwise taking disciplinary action against the
27 licensee on any such ground."

1 7. This accusation also refers to the following Sections of Title 16, Division 1, of
2 the California Code of Regulations ("Regulation"):

3 A. Regulation Section 52 provides as follows:

4 "A licensee shall respond to any inquiry by the Board or its appointed
5 representatives. The response shall include making available all files, working papers
6 and other documents requested. Failure to respond to the inquiry within 30 days
7 constitutes a violation of Section 5100(f) of the Accountancy Act. Any inquiry by the
8 Board requiring a response pursuant to this Section shall be in writing. The 30-day
9 response period begins when the inquiry is mailed to the licensee, or if not mailed, when
10 personally delivered."

11 B. Regulation Section 66.1 provides in part:

12 "..."

13 "(d) An accountancy corporation which has only one shareholder shall not render
14 professional services under a firm name which includes plural terms such as "and
15 Company" or "and Associates" unless the corporation employs a full-time professional
16 staff, other than the shareholder, consisting of at least one licensee and an employee or
17 assistant as described in Section 5053 of the Accountancy Act, or consisting of two or
18 more licensees.

19 "(e) An accountancy corporation which has only one shareholder shall not render
20 professional services under a firm name which includes a plural designation such as
21 "Certified Public Accountants" or "Public Accountants."

22 "..."

23 C. Regulation Section 95.4 provides in part as follows:

24 "The failure of a licensee to comply with a citation containing an
25 assessment of an administrative fine, an order of correction or abatement or both

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1 an administrative fine and an order of correction or abatement after this citation is
2 final . . . shall constitute a ground for revocation or suspension of the license or permit."

3 **COST RECOVERY**

4 8. Code section 5107 provides for cost recovery in part as follows:

5 "(a) The Executive Officer of the board may request the Administrative Law
6 Judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder
7 of a permit or certificate found guilty of unprofessional conduct in violation of
8 subdivisions (b), (c), (i), or (j) of Section 5100, or involving a felony conviction in
9 violation of subdivision (a) of section 5100, or involving fiscal dishonesty in violation of
10 subdivision (h) of section 5100, to pay to the board all reasonable costs of investigation
11 and prosecution of the case, including, but not limited to, attorneys' fees. The board shall
12 not recover costs incurred at the administrative hearing.

13 "..."

14 **Charges and Allegations**

15 9. Respondent Schmidt's CPA license is subject to disciplinary action based on
16 the following:

17 A. In or about 1993, SB and others engaged respondent Schmidt to prepare
18 income tax returns and to provide accounting services for their business, RMC Acoustics
19 ("RMC"), a California corporation. In or about 1997, SB paid respondent Schmidt \$900 to
20 finalize the dissolution of RMC and to prepare 1996 corporate income tax returns. Respondent
21 Schmidt did not complete the corporate dissolution and failed to respond to SB's written notices
22 inquiring about the status of the corporate dissolution.

23 B. In or about March of 1998, in connection with an unrelated complaint against
24 respondent Schmidt, it came to the Board's attention that respondent Schmidt was engaging in
25 public accounting practice with an expired CPA license. On or about March 11, 1998, the Board
26 sent a letter to respondent Schmidt informing her that the practice of accountancy with an
27 expired CPA license constitutes a violation of Code Sections 5050 and 5154. The letter also

1 stated that using plural designations such as "certified public accountants," which designation
2 appeared on respondent Schmidt's business card, is not permissible under Regulation Section
3 66.1, where a firm consists of only one shareholder.

4 C. On or about April 22, 1998, the Board sent a follow-up letter advising
5 respondent Schmidt that, pursuant to Regulation Section 52, failure to respond to an inquiry
6 from the Board within 30 days constitutes a violation of Section 5100(f) of the Business and
7 Professions Code. Respondent Schmidt never replied to the Board. In August 1998, the Board
8 learned that she was engaging in accounting practice with an expired corporate license as well.

9 D. On or about September 14, 1998, the Board issued Citation Order No. CT-99-
10 68, due to respondent Schmidt's practice of accountancy with an expired CPA license. Citation
11 Order No. CT-99-68 contained one alleged violation: engaging in the practice of public
12 accountancy with an expired CPA license, in violation of Business and Professions Code Section
13 5050. Citation Order No. CT-99-68 proposed an administrative fine of \$1,000 and established
14 October 14, 1998, as the date on which, unless contested, the Citation would become a final
15 order of the Board.

16 E. On or about September 14, 1998, the Board issued Citation Order No. CT-99-
17 69 to respondent corporation. Citation Order No. CT-99-69 contained two alleged violations:
18 engaging in the practice of accountancy as a corporation without a valid permit, in violation of
19 Business and Professions Code Section 5050; and, engaging in the practice of accountancy under
20 a firm name which includes plural terms by a corporation with only one shareholder, in violation
21 of Regulation Section 66.1. Citation Order No. CT-99-69 proposed administrative fines totaling
22 \$1,500: \$1,000 for violation of Business and Professions Code Section 5050 and \$500 for
23 violation of Regulation Section 66.1. Citation Order No. CT-99-69 established October 14,
24 1998, as the date on which, unless contested, the Citation would become a final order of the
25 Board.

26 F. On or about September 14, 1998, copies of Citation Order Nos. CT-99-68 and
27 CT-99-69, Statements to Cited Person, Notices of Appeal, and relevant Government Code

1 sections (hereinafter "citation package") were served both by certified and by first class mail on
2 respondent Schmidt and on respondent corporation at their address of record with the Board:
3 5785 Oberlin Drive, Ste. 100, San Diego, CA 92121. On or about September 17, 1998, the
4 green domestic mail return receipts for the citation packages sent by certified mail were returned
5 to the Board by the United States Postal Service reflecting delivery. The above described service
6 was effective as a matter of law pursuant to the provisions of California Government Code
7 Section 11505(c) and Business and Professions Code Section 124. Respondent Schmidt and
8 respondent corporation failed to comply with Citation Order Nos. CT-99-68 and CT-99-69,
9 respectively, on or before October 14, 1998.

10 G. Respondents have relocated twice and have not notified the Board of either
11 move. The last address of record on file with the Board was 5785 Oberlin Drive, Ste. 100, San
12 Diego, CA 92121. The financial statements for RMC and the invoice sent to RMC dated May
13 21, 1997, reflect an address of 5703 Oberlin Drive, Ste. 105, San Diego, California 92121. A
14 post office yellow sticker attached to unclaimed certified mail, which was returned on November
15 4, 1998, shows the current address as 8015 Silverton Avenue, San Diego, California 92126.

16 **FIRST CAUSE FOR DISCIPLINE**
17 **(Gross Negligence in Public Accounting Practice)**

18 10. Respondent Schmidt has subjected her CPA License No. 38260 to
19 disciplinary action under Business and Professions Code Section 5100 for unprofessional
20 conduct as defined by Section 5100(c), in that she exhibited gross negligence in public
21 accounting practice by failing to effect the dissolution of RMC Acoustics, by failing to respond
22 to SB's repeated requests that she contact him about the status of the dissolution, and by
23 accepting payment for services that she never rendered.

24 **SECOND CAUSE FOR DISCIPLINE**
25 **(Fiscal Dishonesty/Breach of Fiduciary Responsibility)**

26 11. Respondent Schmidt has further subjected her CPA License No. 38260 to
27 disciplinary action under Business and Professions Code Section 5100 for unprofessional

1 conduct, as defined by Code Section 5100(h), in that she committed fiscal dishonesty or breached
2 her fiduciary responsibility to SB by retaining payment for services that she failed to render.

3 **THIRD CAUSE FOR DISCIPLINE**
4 **(Practice of Accountancy with Expired CPA License)**

5 12. Respondent Schmidt has further subjected her CPA License No. 38260 to
6 disciplinary action under Business and Professions Code Section 5050 in that, as of February 1,
7 1997, respondent has held herself out as a certified public accountant and engaged in the practice
8 of public accountancy with an expired license.

9 **FOURTH CAUSE FOR DISCIPLINE**
10 **(Failure to Notify Board of Changes of Address)**

11 13. Respondent Schmidt has further subjected her CPA License No. 38260 to
12 disciplinary action for failure to notify the Board in writing of at least two changes of address, in
13 violation of Regulation Section 3.

14 **FIFTH CAUSE FOR DISCIPLINE**
15 **(Failure to Comply with Citation Order)**

16 14. Respondent Schmidt has further subjected her CPA License No. 38260 to
17 disciplinary action under Regulation Section 95.4, in that she failed to comply with Citation
18 Order No. CT-99-68, which contained both an administrative fine and an order of correction and
19 abatement.

20 **SIXTH CAUSE FOR DISCIPLINE**
21 **(Failure to Respond to Board's Requests for Information)**

22 15. Respondent Schmidt has further subjected her CPA License No. 38260 to
23 disciplinary action under Regulation Section 52 in that she failed to respond to written inquiries
24 by the Board.

25 **ALLEGATIONS AGAINST RESPONDENT SCHMIDT CORPORATION**
26 **(Vicarious Liability of Schmidt Corporation)**

27 16. Respondent corporation has subjected its corporate License No. 2449 to

1 disciplinary action pursuant to Business and Professions Code Section 5100, as defined by Code
2 sections 5100(c), 5100(h), 5050 and 5154, and Regulations' Sections 3, 52, and 66.1, in that it is
3 responsible for the acts of its owner, respondent Schmidt, as described above.

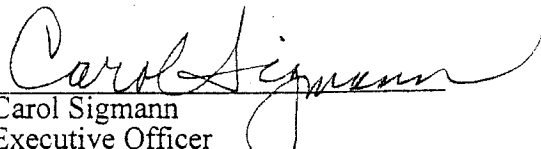
4 17. Respondent corporation is further subject to disciplinary action under
5 Regulation Section 95.4 in that it failed to comply with Citation Order No. CT-99-69, which
6 contained both an administrative fine and an order of correction and abatement.

7 **PRAYER**

8 WHEREFORE, complainant requests that a hearing be held on the matters
9 alleged herein, and that following said hearing, the Board issue a decision:

- 10 1. Revoking, suspending, or otherwise imposing discipline upon Certified
11 Public Accountant License No. 38260, heretofore issued to respondent Kathleen M.
12 Schmidt;
- 13 2. Revoking, suspending, or otherwise imposing discipline upon Schmidt
14 Accountancy Corporation, License No. COR 2449;
- 15 3. Awarding the Board costs as provided by statute; and,
16 4. Taking such other and further action as the Board deems proper.

17
18 DATED: December 30, 1999

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20 
21 Carol Sigmann
22 Executive Officer
23 California Board of Accountancy
24 Department of Consumer Affairs
25 State of California

26 Complainant

27 03583110-SD98AD0148

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